IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO.22599 of 2000

Between:

The Executive Engineer, Division No.1 of G.V.Circle No.II,
Dharoor Camp, Jagitial, Karimnagar District.

...PETITIONER

AND

1. Nelevetla Shekar Reddy, S/o.Parvatha Reddy, C/o.M.A.Rasheed, General Secretary, Pochampad, South Canal, Workers Union, Jagtial, H.No.5-6-64, Mahaboorpura, Jagtial, Karimnagar District.

2. The Chairman, Industrial Tribunal-cum-Labour Court, Godavarikhani, Karimnagar District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order, direction or a writ particularly one in the nature of writ of certiorari calling for the records relating to Award dated 10.07.2000 in I.D.No.44/97 on the file of the Industrial Tribunal cum Labour Court, Godavarikhani and to quash the same.

Counsel for the Petitioner: GP FOR IRRIGATION & COMM AREA DEV.

Counsel for the Respondent NO.1: MR.S.ASHOK ANAND KUMAR

The Court made the following:

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO.22599 of 2000

ORDER:

Heard the learned Government Pleader appearing on behalf of the petitioner and also the learned counsel appearing on behalf of the first respondent.

This Writ Petition is filed at the instance of the management namely the Executive Engineer, Irrigation and Commercial Area Development. The challenge is being made as against the award in I.D.No.44 of 1997, dated 10.07.2000 on the file of the second respondent herein, wherein, the dispute referred to is at the instance of the first respondent. The second respondent has answered in positive holding that the termination is illegal and directed the reinstatement of the service with back wages and continuity in service. A further direction was also given with regard to the fixation of pay.

Learned Government Pleader appearing on behalf of the petitioner submits that though the first respondent was working with them, however, since he committed theft, his services were terminated and therefore, no indulgence could have been shown and further, there is absolutely no explanation forthcoming on his

behalf in effecting the provisions of Section 2-A of the Industrial Disputes Act, 1947 by raising a dispute. His submissions were sought to be referred to on behalf of the respondents.

On consideration of the submissions made and also on perusal of the material, the question which crops up for consideration in this case is as to whether the award of the second respondent herein in setting aside the orders of termination and ordering reinstatement of the first respondent is valid?

There is no dispute to the basic fact that the first respondent was working with the petitioner. However, it is alleged that he committed theft and his services were terminated. These allegations were denied by the first respondent and pointed out that he was appointed in the year 1971 and suddenly in the year 1974 he was asked not to work without any valid reason. Further, it is also pointed out that due to total ignorance to the procedure to be adopted, he could not file an application under Section 2-A of the Industrial Disputes Act before the year 1997.

The second respondent, on reference, after coming from both sides and conducting an enquiry, wherein the first respondent was examined as W.W.1 and on behalf of the petitioner, M.W.1 having been examined and marked the documents in Exs.W1 and 2 and also Ex.M1, came to a conclusion that the termination of the services of the first respondent is totally illegal in view of the fact that it was not preceded by an enquiry. Even now, it has to be seen that the case of the petitioner is that in view of the theft committed by the first respondent, his services were being terminated. Such an allegation itself is a serious one and no such implication can be attributed and

before taking the step of termination, proper enquiry is to be conducted and the first respondent is to be found guilty. In the absence of any such enquiry, the termination effected, as rightly pointed out by the second respondent, is in the teeth of the mandate as contemplated under the law. In view of the same, I do not find any justification in the submissions made on behalf of the petitioner and there are no merits.

The Writ Petition is accordingly dismissed.

-

-

_____

(B.PRAKASH RAO, J)

10th December 2004

RRB

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copy To:

1. The General Secretary, Pochampad, South Canal, Workers Union, Jagtial, H.No.5-6-64, Mahaboorpura, Jagtial, Karimnagar District.

2. The Chairman, Industrial Tribunal-cum-Labour Court, Godavarikhani, Karimnagar District.

3. The Executive Engineer, Division No.1 of G.V.Circle No.II, Dharoor Camp, Jagtial, Karimnagar District.

4. Two CCs to G.P. for Irrigation and Commercial Area Development, High Court Buildings, Hyderabad (OUT).

5. Two CD copies.